

# **EXHIBIT 11**

## **(Redacted Under FRE 408)**

**From:** O'Shea, Margaret A. <MOShea@oag.state.va.us>  
**Sent:** Tuesday, November 20, 2018 11:24 AM  
**To:** Letourneau-Belock, Michelle  
**Cc:** Moore, Charles  
**Subject:** RE: DePaola v. Clarke et al 7:15-cv-00403 - Deficiency Notice

Michelle --

I have been out at trial (and am actually sitting in court in Abingdon right now). As I explained before, the originals of the documents that you are having difficulty reading are at the prison, in the paper institutional file, and I am happy to make those originals available for your inspection. I have not been able to get more readable scans of those items.

Responses to the first set of interrogatories, as well as some additional documents, are available through the following link:

<https://oag.sharefile.com/d-sdea428e4c024009a>

As to your request that we certify that we have produced all the documents we intend to produce, I can't do that because, as you know, our obligation to produce responsive documents continues on past the date of a production, and there is always a chance that additional responsive materials will be brought to my attention that I was unaware of at the time of the initial response, at which point I would then provide a supplemental production. If you think there are documents that we have not produced that you are still looking for, I would appreciate you bringing that to my attention.

As for the interrogatory responses for the remaining defendants, I am still waiting to receive back executed versions of these items. I will get them to you as quickly as possible, but considering that I am out of the office and sitting in court right now, it is not going to be today.

Apart from that, I want to round up with you all regarding the visit from the independent mental health expert. She would like to go back out to the prison next week to see Mr. Depaola again, because she communicated to me that she has some concerns, and she wants to have a follow-up visit. She would also like to know if we have any pre-incarceration mental health records for Mr. Depaola. I don't have those records, but if you all have those items and are willing to produce them to the expert, please let me know. Otherwise I will subpoena them from the respective facilities. In light of her desire to have a follow-up assessment, she would also like additional time to complete her final report. I wanted to give you a heads up on that, because I anticipate that we will need to have a status conference with Judge Sargent respecting the expert's desire to do some follow-up with Mr. Depaola.

Thanks, and I hope you have a great Thanksgiving -  
-Margaret

---

**From:** Letourneau-Belock, Michelle [michelle.letourneaubelock@whitecase.com]  
**Sent:** Friday, November 16, 2018 4:28 PM  
**To:** O'Shea, Margaret A.  
**Cc:** Moore, Charles  
**Subject:** RE: DePaola v. Clarke et al 7:15-cv-00403 - Deficiency Notice

Dear Margaret:

We are following-up on still-outstanding discovery items, discussed in our email correspondence on October 26 and October 30, 2018 (below). Particularly in light of our need to complete our depositions before our December 31 discovery deadline, we request that Defendants provide the remaining items by next **Tuesday, November 20, 2018**. We would prefer to resolve these items without involving the Court, but we no longer have time to wait for Defendants to provide their overdue responses.

- We still have not received responses to Mr. DePaola's First Set of Interrogatories from Defendants Trent, Ketryn, Mullins, Fletcher, and Huff. These responses were due almost two months ago. Particularly in light of the upcoming depositions of these Defendants, please provide these responses by next **Tuesday, November 20, 2018**.
- Please confirm, no later than **Tuesday, November 20, 2018**, that we have now received all of the documents that you intend to produce in response to Mr. DePaola's First Set of Requests for Production of Documents, served on these Defendants on August 21, 2018. If these Defendants intend to produce additional documents, please produce those documents no later than **Tuesday, November 20, 2018**.
- Please try to re-scan or otherwise produce readable versions of the unreadable documents we listed in our October 26, 2018 email (below). As with the other items, please provide new copies no later than **Tuesday, November 20, 2018**.

Since our last correspondence on these discovery deficiencies, a number of other discovery requests—listed below—are now overdue as well. We request that you also cure these deficiencies by next **Tuesday, November 20, 2018**.

- We have not yet received objections and responses to Mr. DePaola's First Set of Requests for Production of Documents served on Defendants Denise Malone, Earl R. Barksdale, Fred Schilling, Jeffrey Kiser, Randall Mathena, and Tracy Ray on October 1, 2018. As you know, any objections to these requests were due on October 31, 2018, and have thus been waived (as is the case for any other delinquent responses); please produce responsive documents no later than **Tuesday, November 20, 2018**.
- We have not yet received responses to Mr. DePaola's First Set of Interrogatories served on Defendants Earl R. Barksdale, Jeffrey Kiser, Randall Mathena, and Tracy Ray on October 1, 2018, which were due on October 31, 2018. Please serve those Defendants' responses to Mr. DePaola's Interrogatories no later than next **Tuesday, November 20, 2018**.
- We have not yet received responses to Mr. DePaola's First Set of Interrogatories served on Defendants Denise Malone and Fred Schilling on October 15, 2018, which were due on November 14, 2018. Please serve those Defendants' responses to Mr. DePaola's Interrogatories no later than next **Tuesday, November 20, 2018**.

We are available to discuss any issues on Monday, November 19, 2018.

Sincerely,

Michelle

**Michelle Letourneau-Belock** | Associate

T +1 212 819 8375 M +1 646 946 2133 E [michelle.letourneaubelock@whitecase.com](mailto:michelle.letourneaubelock@whitecase.com)

White & Case LLP | 1221 Avenue of the Americas | New York, NY 10020-1095

---

**From:** O'Shea, Margaret A. <[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)>

**Sent:** Tuesday, October 30, 2018 3:26 PM

**To:** Letourneau-Belock, Michelle <[michelle.letourneaubelock@whitecase.com](mailto:michelle.letourneaubelock@whitecase.com)>

**Cc:** Moore, Charles <[charlesmoore@whitecase.com](mailto:charlesmoore@whitecase.com)>

**Subject:** RE: DePaola v. Clarke et al 7:15-cv-00403 - Deficiency Notice

Michelle –

Thank you for the below reminder, and you are correct that there are still discovery items outstanding. I am working to complete those this week.

Attached to this email is the joint document production responses for Defendants Trent, Ketron, Mullins, Fletcher, and Huff, specifically identifying the documents that have been produced that are responsive to each category. Two additional items are being produced along with that response – Mr. DePaola's medical record, which I thought had been produced but has not, and a resume for one of the named defendants. Those documents are available here:

<https://oag.sharefile.com/d-sb2cf1e592a744569>

I have the information needed for their interrogatory responses, and intend to have those signed and notarized for production to you by this Friday (as requested).

As to the personnel files for Defendants Ketron and Mullins, because they left VDOC in 2011 and 2010, respectively, their VDOC training and personnel files have been destroyed (and were destroyed long before they were added as defendants to this litigation).

On the request for better copies of the documents you attached to your email, we might not be able to get more legible versions, as those are photocopies of carbon copies, and I am not sure they can be reproduced to make them more legible. I think the best course of action might be to make the originals available for your review, as those are contained in Mr. Depaola's paper institutional file, which is kept at ROSP. Please let me know your thoughts on that.

Finally, on the referenced document (000219), I agree that this is a document pertaining to another inmate, that appears to have been mis-filed in Mr. DePaola's records, and should be disregarded.

Thanks so much, and I will send the remaining discovery items by the end of the week.

Thanks –

Margaret

**Margaret A. O'Shea  
Assistant Attorney General  
Office of the Attorney General**  
202 North 9th Street  
Richmond, Virginia 23219

(804) 225-2206 Office  
[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)  
<http://www.ag.virginia.gov>



---

**From:** Letourneau-Belock, Michelle [<mailto:michelle.letourneaubelock@whitecase.com>]

**Sent:** Friday, October 26, 2018 9:11 PM

**To:** O'Shea, Margaret A.

**Cc:** Moore, Charles

**Subject:** DePaola v. Clarke et al 7:15-cv-00403 - Deficiency Notice

**CONFIDENTIAL**

Dear Margaret:

We are following up on Mr. DePaola's First Set of Requests for Production of Documents and First Set of Interrogatories served on Defendants Trent, Ketron, Mullins, Fletcher, and Huff on August 21, 2018. Based on our review, certain discovery responses for these Defendants still have not been provided to us, or they have not been produced completely or legibly. We identify those outstanding discovery responses below:

- We have not yet received objections and responses to those RFPs or responses to those Interrogatories, which were due on September 20, 2018. If any of the documents that you previously produced to us were productions on behalf of Defendants Trent, Ketron, Mullins, Fletcher, and Huff, please let us know. If we have not received documents from these individuals, please advise us immediately as to when we can expect those documents. In any case, please serve those Defendants' written responses by next Friday, November 2, 2018. Likewise, please serve those Defendants' responses to Mr. DePaola's Interrogatories no later than next Friday, November 2, 2018.
- Subject to my request above, please confirm that these Defendants have produced all of the documents that they intend to produce. If these Defendants intend to produce additional documents, please produce those documents no later than November 2, 2018. For example, we note that the current production does not include any personnel records for Defendants Ketron and Mullins. Please confirm that those records are forthcoming, and that they will be produced by November 2, 2018.
- After reviewing the documents that these Defendants have produced, we cannot read in full VDOC000234, VDOC000235, VDOC000236, VDOC000245, VDOC000261, VDOC000272, VDOC000284, VDOC000335, VDOC000727. Please see the attached copies of those documents that we received. Please reproduce fully legible copies of VDOC000234, VDOC000235, VDOC000236, VDOC000245, VDOC000261, VDOC000272, VDOC000284, VDOC000335, VDOC000727 as soon as possible, but in any case no later than November 2, 2018.
- Please note that we very recently saw in Defendants' production the attached document, stamped VDOC000219, that appears to concern another inmate. If Defendants intentionally produced this document to us, please confirm so. Alternatively, please advise us as to the requested disposition of this document.

In light of the current discovery schedule, please let us know immediately if you anticipate any delays in providing responses to Mr. DePaola's discovery requests.

Sincerely,

Michelle

**Michelle Letourneau-Belock** | Associate  
T +1 212 819 8375 M +1 646 946 2133 E [michelle.letourneaubelock@whitecase.com](mailto:michelle.letourneaubelock@whitecase.com)  
White & Case LLP | 1221 Avenue of the Americas | New York, NY 10020-1095

**WHITE & CASE**

---

---

This email communication is confidential and is intended only for the individual(s) or entity named above and others who have been specifically authorized to receive it. If you are not the intended recipient, please do not read, copy, use or disclose the contents of this communication to others. Please notify the sender that you have received this email in error by replying to the email or by telephoning +1 212 819 8200. Please then delete the email and any copies of it. Thank you.

Our external privacy policy is available on <https://www.whitecase.com/privacy-policy>.

---

---

This electronic communication may contain confidential or privileged information for an intended recipient. If you are not the intended recipient or received this email in error, please notify the sender immediately by return email and delete this email without disclosing, duplicating or otherwise transmitting the contents, including all attachments.

---

---

This email communication is confidential and is intended only for the individual(s) or entity named above and others who have been specifically authorized to receive it. If you are not the intended recipient, please do not read, copy, use or disclose the contents of this communication to others. Please notify the sender that you have received this email in error by replying to the email or by telephoning +1 212 819 8200. Please then delete the email and any copies of it. Thank you.

Our external privacy policy is available on <https://www.whitecase.com/privacy-policy>.

---

---

This electronic communication may contain confidential or privileged information for an intended recipient. If you are not the intended recipient or received this email in error, please notify the sender immediately by return email and delete this email without disclosing, duplicating or otherwise transmitting the contents, including all attachments.